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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,251	09/25/2001	Gina E. Kelly	ATL 271	8579

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PHILIPS MEDICAL SYSTEMS  
PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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BOTHELL, WA 98041-3003

EXAMINER
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NAJARIAN, LENA

ART UNIT	PAPER NUMBER
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3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/963,251

Applicant(s)

KELLY ET AL.

Examiner

Lena Najarian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Notice to Applicant***

1. This communication is in response to the amendment filed 5/15/06. Claims 1-23 remain pending. Claims 10, 13, and 17 have been amended.

***Drawings***

2. The objection to the drawings is hereby withdrawn due to the amendment filed 5/15/06.

***Claim Rejections - 35 USC § 112***

3. The rejection of claims 10 and 17 under 35 U.S.C. 112, second paragraph, is hereby withdrawn due to the amendment filed 5/15/06.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 6-7, and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 6,546,230 B1) in view of Eckmann (4,539,435).

(A) Claims 1-4, 6-7, 9, 11, and 12 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

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(B) Claim 10 has been amended to overcome the claim objection set forth in the previous Office Action. However, the change does not affect the scope and breadth of the claim as originally presented and/or in the manner in which the claim was interpreted by the Examiner when applying prior art within the previous Office Action. As such, this claim is rejected under the same rationale given in the prior Office Action, and incorporated herein.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 6,546,230 B1) in view of Eckmann (4,539,435), and further in view of Gray (6,149,585).

(A) Claim 5 has not been amended and is therefore rejected for the same reasons given in the previous Office Action, and incorporated herein.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 6,546,230 B1) in view of Eckmann (4,539,435), as applied to claim 1 above, and further in view of Garcia (5,065,315).

(A) Claim 8 has not been amended and is therefore rejected for the same reasons given in the previous Office Action, and incorporated herein.

8. Claims 13-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 6,546,230 B1) in view of Eckmann (4,539,435), and further in view of Ramshaw et al. (5,791,907).

(A) Referring to claim 13, Allison and Eckmann do not expressly disclose a tutorial presented in a computerized display, the tutorial presenting one or more teaching segments of medical information which contain an animation illustrating the medical information being taught.

Ramshaw discloses a tutorial presented in a computerized display, the tutorial presenting one or more teaching segments of medical information which contain an animation illustrating the medical information being taught (col. 2, line 65 – col. 3, line 18, col. 3, lines 50-65, and col. 10, lines 8-10 of Ramshaw).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Ramshaw within Allison and Eckmann. The motivation for doing so would have been to facilitate the learning process (col. 7, lines 31-33 of Ramshaw).

(B) Referring to claims 14-17, Allison and Eckmann do not expressly disclose wherein a teaching segment further comprises a textual passage describing the medical information and an animation illustrating the medical information, wherein the animation comprises an animated graphic, wherein the animation comprises a moving picture, and wherein the textual passage and the animation are viewable on a computer screen without scrolling.

Ramshaw discloses wherein a teaching segment further comprises a textual passage describing the medical information and an animation illustrating the medical information (Fig. 8A and col. 11, lines 47-65 of Ramshaw), wherein the animation

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comprises an animated graphic (col. 4, lines 2-12 and col. 10, lines 8-10 of Ramshaw), wherein the animation comprises a moving picture (col. 3, lines 6-18 of Ramshaw), and wherein the textual passage and the animation can be seen on a computer screen without scrolling (Fig. 8B of Ramshaw).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Ramshaw within Allison and Eckmann. The motivation for doing so would have been to provide video or visual windows on the display to facilitate the education and training (col. 4, lines 8-12 of Ramshaw).

(C) Referring to claim 18, Allison discloses wherein a teaching segment further comprises a quiz of the medical information taught in the segment (col. 2, lines 1-13 of Allison).

(D) Referring to claim 19, Allison discloses wherein the number of teaching segments is two or more (col. 2, lines 1-13 of Allison).

(E) Referring to claim 20, Allison and Eckmann do not expressly disclose wherein the quiz further comprises a graphic with which a student interacts to demonstrate knowledge of the medical information.

Ramshaw discloses wherein the quiz further comprises a graphic with which a student interacts to demonstrate knowledge of the medical information (col. 3, lines 6-18 and col. 12, line 60 – col. 13, line 13 of Ramshaw).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Ramshaw within Allison and

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Eckmann. The motivation for doing so would have been to for a user to be informed whether the input is correct (col. 3, lines 6-18 of Ramshaw).

(F) Referring to claims 21 and 22, Allison discloses a diagnostic medical image (col. 2, lines 24-42 of Allison) and a clinical application of medical diagnostic imaging (col. 5, lines 47-52 and col. 2, lines 24-42 of Allison).

(G) Referring to claim 23, Allison discloses wherein the medical information comprises operation of medical equipment (col. 2, lines 32-36 of Allison). Insofar as the claim recites "at least one of," it is immaterial whether or not the other elements are also disclosed.

### ***Response to Arguments***

9. Applicant's arguments filed 5/15/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 5/15/06.

(1) Applicant argues at page 9 that the Eckmann case study bears no resemblance to a medical patient chart and in fact has no graphic components whatsoever. Applicant also states that the dependent claims have other elements not found in Allison or Eckmann, such as diagnostic reports of a virtual patient chart with diagnostic images from a plurality of imaging modalities.

(2) Applicant argues at page 10 that there is no indication that the Gray system ever tells the user that a user selection is inappropriate or unnecessary for a particular diagnosis. Furthermore, Gray's system is not a medical training system, it is a

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computerized diagnostic aid. Moreover, there is no use of a virtual patient chart in the Gray system.

(3) Applicant argues at page 11 that there is no disclosure of any medical training system in Garcia, no suggestion of a virtual patient chart (only an actual one), and no suggestion of a virtual patient chart containing either a lab report or pathology specimen pictures.

(4) Applicant argues at page 11 that Ramshaw et al. does not employ or suggest any presentation of a virtual patient chart.

(A) As per the first argument, the Examiner respectfully submits that Allison teaches a computer-based interactive medical training system (col. 2, lines 1-13 of Allison). Eckmann teaches simulated patient management problems that include a brief patient history (i.e., a medical patient chart) (col. 5, lines 60-67 of Eckmann).

In response to applicant's argument that the Eckmann case study bears no resemblance to a medical patient chart and in fact has no graphic components whatsoever, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).



In addition, the Examiner disagrees that diagnostic reports of a virtual patient chart with diagnostic images from a plurality of imaging modalities are not found in Allison or Eckmann. The Examiner respectfully submits that col. 6, lines 42-51 of Allison discloses that a user of the diagnostic system can view “graphical or textual representations of data, messages, *reports* and so forth.” Col. 2, lines 28-32 of Allison teaches that the “diagnostic systems may include different imaging modalities....” As such, it is readily apparent that Allison teaches diagnostic reports with diagnostic images from a plurality of imaging modalities.

(B) As per the second argument, the Examiner respectfully submits that Gray teaches that in some cases tasks are requested that are inappropriate (col. 1, lines 46-54 of Gray). Fig. 22 displays a “recommendation” and the opportunity to accept this recommendation. Gray also teaches that “the system can be programmed to select an appropriate diagnostic task for recommendation....Fig. 5 shows a portion of a table of recommended imaging choices for some selected diagnoses (or selected possible diagnoses) relating to joint pain....In this manner, costly procedures may be deferred and ultimately avoided”(col. 6, line 50 – col. 7, line 8 of Gray). As such, it is readily apparent that Gray teaches that some tasks are not necessary.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., there is no indication that the Gray system ever *tells the user* that a user selection is inappropriate or unnecessary for a particular diagnosis) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from

the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In addition, the Examiner respectfully submits that Allison and Eckmann were relied on for the features of a medical training system and a virtual patient chart.

(C) As per the third argument, the Examiner respectfully submits that Garcia was relied on for comprising laboratory reports (col. 1, lines 16-23 of Garcia). Allison and Eckmann were relied on for the features of a medical training system and a virtual patient chart. As such, the proper combination of these references teaches wherein the virtual patient chart comprises laboratory reports.

(D) As per the fourth argument, the Examiner respectfully submits that in claim 13 Ramshaw was relied on for the features of "a tutorial presented in a computerized display, the tutorial presenting one or more teaching segments of medical information which contain an animation illustrating the medical information being taught." There is no mention of a virtual patient chart in claim 13.

### **Conclusion**

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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*Ln*

In

1-23-07

*Joseph Thomas*  
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